

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

MAY 24, 2006

AGENCY MEMBERS PRESENT

Caldwell, Gene, M.D., Chair
Atchley, Bryan, Vice Chair
Collier, David, M.D., designee for the TennCare Director
Handorf, Charles, M.D.
Jones, Clark
Koella, Carl, III,
Lammert, Gregory
Troy, Peggy
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Coile, Kristin, designee for the Commissioner of Commerce and Insurance

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant II
Brogden, Reid, General Counsel
Christoffersen, Jim, Deputy General Counsel
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Wells, Phil, Health Planner III

GUESTS PRESENT

Bailey, James, Assistant Vice President, Johnson & Bailey Architects, PC
Ball, Charles A., MD, Medical Director, Maury Regional Hospital
Beck, Warren, Director of Finance, VUMC
Bowman, Joe, CFO, StoneCrest Medical Center
Brent, Michael D., Esq., Boulton, Cummings, Connors & Berry
Brown, Dere, NHC
Corritore, Danell, Department of Health
Cravens, Tom, Esq., Kramer, Rayson, Leake, Rodgers & Morgan
Culp, Joe, Department of Health
Davis, Jamie, CNO, Maury Regional Hospital
Day, Ed, Consultant
Delph, Benjamin, Bass, Berry & Sims
Duncan, Bruce, NHC
Elrod, Dan H., Esq., Miller & Martin
Fowler, Holly, CEO, Henderson County Community Hospital
Gregory, David F., Administrative Director, Clinical Support
Hernand-Schulman, Marta, MD, Vanderbilt University Medical Center
Hill, Ronald W., Vice President, Strategic Development, Vanderbilt University Medical Center
Houchin, Barbara, St. Thomas Health System
Lucchesi, Jane, Memorial Hospital
Maples, Lisa, Maury Regional Hospital

HEALTH SERVICES AND DEVELOPMENT AGENCY

MAY 24, 2006 MEETING

- PAGE 1 -

Mericle, Robert, MD, Associate Professor of Radiology, Vanderbilt University Medical Center
Nicely, David, COO, StoneCrest Medical Center
Pope, Ron, Associate Administrator, Maury Regional Hospital
Russell, Richard, THCA
Shmerling, Jim, Ex. Dir. CEO, Monroe Carell Jr. Children's Hospital
Taylor, Jerry W., Esq., Farris, Mathews, Branan, Bobango, Hellen & Dunlap, PLC
Thompson, Ann R., Director, Health Care Facilities, Department of Health
Trauger, Byron, Esq., Trauger & Tuke
Turner, David M., MD, Maury Regional Hospital
Walton, Frank, COO, Parkridge Medical Center
Wellborn, John, Development Support Group

Chairman Caldwell called the meeting to order at 8:30 a.m. in Room 160, First Floor Conference Room, Davy Crockett Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, announced that The West Clinic application has been deferred to the August Meeting. Tennessee Sports Medicine has been withdrawn and Tennessee Advanced Neurodiagnostic Institute, Inc. has been deferred to the June meeting.

CONSENT CALENDAR APPLICATION

Ms. Hill summarized the following Consent Calendar application:

Tennessee Valley Diagnostic Center - (Hamilton, Chattanooga County)-Project No. CN0603-016

The establishment of an outpatient diagnostic center (ODC), and the initiation of outpatient magnetic resonance imaging (MRI) services in leased space in a new building to be constructed in front of Parkridge Medical Center. The ODC will also provide computerized tomography (CT) services. This project will replace the unimplemented Certificate of Need (CN0502-010) approved for an ODC with MRI on the Parkridge Medical Center Campus. Project Cost \$11,904,849.00.

John Wellborn, Consultant, addressed the Agency, on behalf of the applicant, and and Frank Walton, COO, Parkridge Medical Center, spoke on behalf of the project.

Ms. Troy moved for approval of the application. This project replaces CN0502-010A. The approval is based on: 1) Need – There is a need as it is open to TennCare and other payment diversities; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care. **CONDITION: CN0502-010A will be surrendered.** Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell
NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mr. Farber summarized the following CON applications:

Ms. Troy recused

Monroe Carell Jr. Children's Hospital at Vanderbilt - (Nashville, Davidson County) - Project No. CN0602-005

The acquisition of a Philips Achieva Nova Dual 1.5 Tesla magnetic resonance imaging (MRI) system to be located in the Radiology Department of the Children's Hospital. The MRI system is used in the diagnosis of clinical conditions. This project does not affect the hospital's bed complement. Project Cost \$4,153,175.00.

Ronald W. Hill, Vice President, Strategic Development, addressed the Agency on behalf of the project. Dr. Marta Hernand-Schulman spoke on behalf of the project.

Mr. Koella moved for approval of the application based on: 1) Need – The need is clearly there with a nine (9) week backlog and using the guidelines through the State's statistical request; 2) Economic Feasibility – The project is economically feasible through cash reserves of the hospital; and 3) The project does contribute to the orderly development of adequate and effective health care as they are properly licensed and they are a strong TennCare provider. Mr. Lammert seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell
NAY: None

Vanderbilt University Hospital - (Nashville, Davidson County) - Project No. CN0602-006

The acquisition of a Philips Allura FD 20/1/0 Bi-Plane angiography machine for use in performing neuroendovascular procedures. The equipment will be located in the Radiology Department of the main hospital. This project does not affect the hospital's bed complement. Project Cost \$3,378,691.00.

Ronald W. Hill, Vice President, Strategic Development, addressed the Agency and Dr. Robert Mericle, Associate Professor, Department of Radiology spoke on behalf of the project. Present were: Warren Beck, Director of Finance; David F. Gregory, Admin. Dir. Clinical Support; and Jim Shmerling, Executive Director/CEO, Monroe Carell Jr. Children's Hospital

Mr. Koella moved for approval of the application based on: 1) Need – The need is there for a tertiary hospital to have such specialty equipment reducing the volume on the other machines; 2) Economic Feasibility – The project is economically feasible through cash reserves of the parent hospital; and 3) The project does contribute to the orderly development of adequate and effective health care as they are licensed and a major TennCare provider. Ms. Troy seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell
NAY: None

Henderson County Community Hospital-(Lexington, Henderson County)-Project No. CN0602-008

The discontinuance of obstetrical services. No inpatient beds are affected. Project Cost \$25,000.00.

William H. West, Esq., representing the applicant, addressed the Agency. Holly Fowler, CEO, spoke on behalf of the project.

Ms. Troy moved for approval of Certificate of Need CN0602-008 for the discontinuation of obstetrical services at Henderson County Community Hospital in Lexington, Tennessee based on: 1) Need – The need is demonstrated; 2) Economic Feasibility – The project is economically feasible; and 3) The project does contribute to the orderly development of adequate and effective health care with the issues of malpractice insurance. Mr. Atchley seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell
NAY: None

Dr. Handorf moved that the Chair draft a letter to the Governor's Office with the number of closures of obstetrics services throughout the state, and their location, that referenced malpractice insurance premiums as reason for closure. Mr. Atchley seconded. The motion CARRIED [9-0-0]. **APPROVED by voice vote.**

AYE: Troy, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell
NAY: None

Maury Regional Hospital - (Columbia, Maury County) - Project No. CN0602-011

The remodeling and expansion of the West Tower by renovation of 25,490 square feet of space and the construction of 7,840 square feet of new space on the first floor of the hospital. The project will also include the expansion of the emergency department, a laboratory support area, an inpatient discharge space and shelled space. This project does not affect the hospital's bed complement. Project Cost \$11,573,274.00.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: David M. Turner, MD; Ed Day, Consultant; Jamie Davis, CNO; and Ron Pope, Associate Administrator. Present were: Lisa Maples and Charles A. Ball, MD, Medical Director.

Mr. Koella moved for approval of the application based on: 1) Need – The need is demonstrated through the number of emergency room visits. The department started with 10,000 visits which is now expected to go over 41,000 visits. It has been almost thirty (30) years since a renovation of that department. There is no surgical capacity, which clearly indicates the need; 2) Economic Feasibility – The project is economically feasible through tax exempt bonds; and 3) The project does contribute to the orderly development of adequate and effective health care as they are TennCare providers and licensed. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell
NAY: None

The West Clinic, P.C. - (Memphis, Shelby County) - Project No. CN0602-012

The acquisition of a linear accelerator and initiation of radiation therapy services in an existing, licensed ambulatory surgical treatment center (ASTC) limited to the use by the physicians and patients of The West Clinic.

DEFERRED TO AUGUST MEETING

StoneCrest Medical Center - (Smyrna, Rutherford County) - Project No. CN0602-013

The expansion of the Surgical Department. This project will add two (2) finished operating rooms (ORs) and two (2) shelled ORs to the current four (4) ORs. The project will also include the expansion of the recovery room and other surgical support space. This project does not affect the hospital's bed complement. Project Cost \$8,627,719.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. David Nicely, COO, and Joe Bowman, CFO, spoke on behalf of the project. John L. Wellborn, Consultant, was present

Dr. Handorf moved for approval of the application based on: 1) Need – The need is established objectively by the use of the existing facility in the community. The Center is supported by the growing population in the community and surrounding communities; 2) Economic Feasibility – The project is economically feasible and funded by cash reserves of the parent company; and 3) The project does contribute to the orderly development of adequate and effective health care as they are TennCare providers and licenses are in place. Mr. Lammert seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell
NAY: None

GENERAL COUNSEL'S REPORT

Tennessee Sports Medicine - (Mt. Juliet, Wilson County) - Project No. CN0402-009A

Request for modification of the Certificate of Need. This project was approved for the initiation of magnetic resonance imaging (MRI) services limited to the orthopedic patients of the center. The expiration date is July 1, 2006.

This request is to permit the CON holder, to be able to provide MRI services to any patients of physicians who are employed by Tennessee Sports Medicine & Orthopedics, PC, whether or not they are orthopedic patients.

WITHDRAWN

NHC HealthCare, Farragut - (Knox, Knoxville County) - Project No. CN0308-062AE

Request for a three (3) month extension of the expiration date from August 1, 2006 to November 1, 2006. This project was approved on December 17, 2003 for the addition of thirty (30) Medicare certified nursing home beds to the existing sixty (60) beds for a total of ninety (90) beds. The project was not opposed. On December 17, 2004 approval for a six (6) month extension of the expiration date from February 1, 2006 to August 1, 2006 and project cost over-run from \$1,524,900 to \$3,804,600 was granted. The first extension was granted due to the facility being engaged in extensive discussions with referring physician groups and the unexpected and substantial increase in the cost of construction materials.

The extension is requested due to problems encountered during construction, and delays in delivery of materials. The project is approximately 65 percent completed and should be completed mid-September.

Dan H. Elrod, Esq., representing the applicant, addressed the Agency. Bruce Duncan, Assistant Vice President, NHC and James Bailey, Assistant Vice President, Johnson & Bailey Architects, PC, were present.

Ms. Troy moved for approval of the request of NHC, Farragut of Knoxville for a three (3) month extension of the expiration date to November 1, 2006. Mr. Lammert seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Troy, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell
NAY: None

Tennessee Advanced Neurodiagnostic Institute, Inc. - (Davidson, Nashville County) - Project No. CN0309-084A

The request is to remove the limitation of neurological uses only. This project was approved December 17, 2003 for the establishment of an outpatient diagnostic center with the acquisition of a fixed full-time leased 3.0 Tesla magnetic resonance imaging (MRI) unit and the initiation of MRI services limited to neurological uses. The expiration date was February 1, 2006. The project was implemented January 24, 2005. Opposing the project were: David R. Uskavitch, MD, Neurologic Consultants; and Michael Kaminiski, MD, St. Thomas Neurology Group. The applicant has published a notice of the request and notified opposition.

Vanderbilt Imaging Services, LLC (VIS), along with St. Thomas Network (STN), intends to acquire the imaging assets of Tennessee Advanced Neurodiagnostic Institute (TANI) and provide services through the existing MRI as a joint venture. This MRI, with the removal of the limitations, will allow TANI to treat all patients referred to the center by not only providing diagnosis of demyelinating diseases of the brain and spine, but also diagnosis of diseases and conditions appropriate for 3.0 T imaging.

DEFERRED TO JUNE MEETING

CONTESTED CASE UPDATE

Mr. Brogden gave an update of the following contested cases.

1. Alliance Home Care, CN0601-001D, and AmeriCare Home Health, CN0511-096D, were appealed from the April 2006 meeting.
2. Riverside Surgery Center, LLC v. Cape Surgery Center, LLC & Tennessee Health Services and Development Agency, CN0402-011A. The Davidson County Chancery Court denied Riverside's Motion for Preliminary Injunction, in which Riverside had sought an order barring Cape from proceeding under its CON, and an order instructing the HSDA to suspend CON0402-011A pending final judgment in this action. Riverside has filed a Notice of Voluntary Dismissal, which terminates its Chancery suit.

Mr. Christoffersen gave an update of the following contested case.

1. Tennessee Sports Medicine Surgery Center, CN0411-103D. The applicant's appeal of the denial of the Certificate of Need. Several parties had opposed the project but only UMC intervened in the appeal. The applicant has resolved its differences with University Medical Center, and UMC will withdraw from the appeal.

OTHER BUSINESS

Ms. Hill reported on The *State of Tennessee Audit Committee Act of 2005*, which requires that an audit committee be formed if the body has the authority to hire or terminate its employees or is responsible for the preparation of financial statements whether included in the financial statements of other entities or free-standing.

HSDA staff was first informed of the requirement during the Financial Audit exit interview in 2005.

On July 28, 2005, Dr Caldwell made a formal request to the Comptroller that the HSDA be exempted from this requirement based on the following reasons:

The agency is not responsible for hiring staff. The agency hires the executive director who then hires staff.

Financial statements are not prepared.

In October 2005, Mr. Morgan responded that his office was working on information that would provide guidance to all affected agencies. He indicated that once that guidance had been issued the agency could review it and then determine if a waiver should be requested.

The guidance was issued in November 2005. The information has been distributed previously.

Ms. Hill asked agency members to decide whether to form an audit committee or request an exemption.

Ms. Troy moved that the Chair proceed with the request for exemption. Mr. Lammert seconded.

AYE: Troy, Lammert, Koella, Atchley, Handorf, Collier, Jones, Caldwell

NAY: None

ABSTAINED: Weaver

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

The minutes of the April 26, 2005, meeting were accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/mab